

# Human Fertilisation and Embryology Authority

## Minutes of the Executive Licensing Panel

Meeting held at HFEA, Finsbury Tower, 103-105 Bunhill Row, London, EC1Y 8HF on  
**19 June 2015**

### Minutes – item no. 1

Centre 0088 (London Fertility Centre) – Special Directions to access patient records

#### Members of the Panel:

Paula Robinson  
Head of Business Planning (Chair)  
David Moysen  
Head of IT  
Hannah Verdin  
Head of Regulatory Policy

#### Members of the Executive in attendance:

Dee Knoyle  
Committee Secretary

Declarations of interest: members of the panel declared that they had no conflicts of interest in relation to this item.

The panel had before it:

- HFEA protocol for the conduct of meetings of the Executive Licensing Panel
- 8th edition of the HFEA Code of Practice
- Human Fertilisation and Embryology Act 1990 (as amended)
- decision trees for granting and renewing licences and considering requests to vary a licence (including the PGD decision tree)
- guidance for members of the Authority and committees on the handling of conflicts of interest approved by the Authority on 21 January 2009
- guidance on periods for which new or renewed licences should be granted
- standing orders and instrument of delegation
- indicative sanctions guidance
- HFEA Direction 0008 (where relevant) and any other relevant directions issued by the Authority
- guide to licensing
- compliance and enforcement policy
- policy on the publication of Authority and committee papers

## **Background**

1. In August 2014 the ownership of the London Fertility Centre (centre 0088) changed.
2. Under the terms of the transfer of ownership the archived patient records remained the responsibility of the previous owners, Spire Healthcare. The records did not therefore transfer to the new owners and remained stored securely and confidentially on the premises of a third party. Spire Healthcare are no longer licensed by the HFEA and therefore archived patient records cannot be accessed by their staff. If they were to access the patient records, this would mean information defined under the terms of Section 31(2)(b) of the 1990 Human Fertilisation and Embryology Act (as amended) would be disclosed contrary to the prohibition of such disclosure under the terms of Section 33A of the Act. These records have, therefore, not been accessed by Spire Healthcare staff.
3. Spire Healthcare have received a request from a solicitor acting on behalf of a patient for access to their treatment records and the HFEA have also received an information request that can only be fulfilled after access to archived patient records currently held by Spire Healthcare has been granted.

## **Recommendation**

4. The panel noted the Inspectorate's recommendation that, as an urgent temporary measure, Special Directions be issued to Jean-Jacques de Gorter, a Board Director of Spire Healthcare Ltd, and Hugh Murray, a Solicitor at Spire Healthcare Ltd, under section 24(5A)( b) for a period of six months, to allow archived records to be accessed and, where it is lawful, for the records to be disclosed to relevant persons.
5. The panel noted that the Inspectorate is satisfied with the qualifications, experience and seniority of the named persons to assume responsibility for these Special Directions. The Inspectorate is also assured that these individuals will have a clear understanding of the confidentiality requirements of the HF&E Act.
6. The panel further noted the Inspectorate's intention to continue to liaise with Spire Healthcare Ltd to identify a suitable solution to the long term storage and access of the archived patient records.

## **Decision**

7. The panel considered the papers, which included an Executive Summary and correspondence.
8. After due consideration the panel agreed the following:
  - that Special Directions are issued to Jean-Jacques de Gorter, a Board Director of Spire Healthcare Ltd and Hugh Murray, a Solicitor at Spire Healthcare Ltd under section 24(5A)( b) for a period of six months to allow the named persons to access the archived patient records and, where it is lawful, for the records held by them to be disclosed to relevant persons.

9. The panel was also concerned to ensure that the responsibility for these records is transferred to an HFEA licensed clinic without undue delay. The panel wished to emphasise the importance of this, and asked the Inspectorate to work with Spire Healthcare Ltd, as planned, with this specific aim in mind.
10. The panel also asked that the Inspectorate provide the Executive Licensing Panel with a report on progress towards resolution of this matter within three months of the Special Directions being issued.

*Paula Robinson*

Signed:  
Paula Robinson (Chair)

Date: 22 June 2015